

Message Text

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ACTION ARA-20

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FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 5005

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

UNCLAS BRASILIA 6028

E.O. 11652: N/A

TAGS: BEXP, BR

SUBJECT: STATE TRADE PROMOTION OFFICES

REF: STATE 121905

1. FOLLOWING REPORT PREPARED BY CONGEON, RIO:

A. CONSULATE GENERAL DISCUSSED STATE OF ILLINOIS PROPOSITION MENTIONED IN PARA 2 REFTEL WITH 3 RIO ATTORNEYS KNOWLEDGEABLE IN TAX MATTERS. NONE WAS ABLE TO GIVE DEFINITE OPINION ON HOW STATE COULD PROCEED TO OBTAIN TAX-FREE STATUS WITHOUT A SPECIAL PRIVILEGE GRANT EXTENDED BY GOB. IT IS PREVAILING OPINION THAT STATE PROMOTION OFFICE WOULD HAVE TO COMPLY WITH BRASILIA LEGISLATION FOR ITS ACTIVITIES IN BRAZIL IN SAME MANNER AS NORMAL BUSINESS ENTERPRISE. ATTORNEYS POINTED OUT THAT STATE OFFICE REQUEST IS SUI GENERIS AND HAS NEVER BEEN RAISED. IT WOULD REQUIRE AN IN-DEPTH STUDY OF PERTINENT BRAZILIAN LEGISLATION. THEY BELIEVE, HOWEVER, THAT IF GOB AGGRESS TO THE ESTABLISHMENT OF A STATE PROMOTION OFFICE, IT WILL SPELL OUT THE FISCAL STATUS TO BE GIVEN TO SUCH OFFICE IN THE AUTHORIZING DECREE. (NOTE: IN DISCUSSIONS WITH EMBASSY, FONOFF MADE NO MENTION OF GOB ISSUING SUCH A DECREE.)

B. ASSUMING THAT GOB GRANTS APPROVAL WITHOUT SPECIFYING SPECIAL PRIVILEGES, ATTORNEYS CONSULATED AND CONSULATE GENERAL BELIEVE UNCLASSIFIED

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THAT:

1. REMITTANCES BY THE STATE OF ILLINOIS TO ITS BRAZILIAN OFFICE TO COVER ACTUAL OPERATING EXPENSES WOULD NOT BE SUBJECT TO INCOME TAX.

2. THE AMERICAN STATE REPRESENTATIVE RUNNING THE OFFICE WOULD BE SUBJECT TO BRAZILIAN INCOME TAX ON HIS EARNINGS IN BRAZIL AS WELL AS ANY INCOME ABROAD.

3. THE OFFICE WOULD HAVE TO PAY IMPORT DUTIES, INDUSTRIAL PRODUCTS TAX, MERCHANDISE CIRCULATION TAX, AND ALL OTHER CHARGES AND FEES FOR ANY IMPORTS INTO BRAZIL.

4. IF THE OFFICE WRITES ANY TYPE OF INSURANCE OR ENGAGES IN ANY FINANCIAL OPERATION, THE INSURANCE PREMIUM OR THE FINANCING CONTRACT WILL INCLUDE THE BRAZILIAN TAX ON FINANCIAL TRANSACTIONS.

5. OFFICE WILL BE SUBJECT TO BRAZILIAN LABOR LEGISLATION. FOR EXAMPLE, BOTH THE OFFICE AND ITS EMPLOYEES (INCLUDING THE ILLINOIS STATE REPRESENTATIVE) WOULD BE REQUIRED TO CONTRIBUTE TO THE NATIONAL WELFARE INSTITUTE (INPS). THE OFFICE WILL ALSO HAVE TO CONTRIBUTE TO THE EMPLOYEES' INDEMNITY GUARANTEE FUND (GDTS) THE GOB MAY ALSO REQUEST THE OFFICE TO PARTICIPATE IN THE SOCIAL INTEGRATION PROGRAM (PIS).

6. ILLINOIS STATE LEGISLATURE REPRESENTATIVES, MESSRS. COLLINS AND PIERCE VISITED EMBASSY ON AUGUST 2 TO INQUIRE FURTHER ON CONDITIONS FOR SETTING UP STATE OFFICE, WHICH WOULD BE LOCATED IN SAO PAULO. EMBOFFS PROVIDED GENERAL BACKGROUND ON GOB POLICY AND STATE OFFICIALS INDICATED THAT THEY WERE NOT PARTICULARLY CONCERNED WITH OBTAINING SPECIAL PRIVILEGES FOR OFFICE. THEY ALSO INDICATED THAT REPRESENTATIVE WOULD BE US CITIZEN ALREADY RESIDENT IN BRAZIL.
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